



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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**Summary of and Response to Comments on Hazardous Waste Proposal
9/22/05**

General Comments: Commenters were generally supportive of the proposed waiver for elementary neutralization as well as the waiver for case-by-case determinations. Some commenters stated that the proposed changes would “level the playing field” allowing companies to operate under requirements that are no more burdensome than the federal RCRA regulations. Furthermore, the proposed changes would help reduce unnecessary regulatory burden, reduce confusion between state-to-state requirements for those businesses operating in multiple states, and lessen costs for industries doing business in Massachusetts, all without lessening environmental protection. One commenter stated that the waiver for elementary neutralization would lead to a reduction in the number of leaks or spills due to waste transfer activities (such as hose transfers) as well as spills due to highway accidents.

Comments Specific to the Proposed Waiver for Elementary Neutralization

Comment: Several commenters questioned the need for the requirements provided in 310 CMR 30.1103(3), e.g., notification, trial tests, etc., that are not required in analogous federal regulations for elementary neutralization. Neutralization of solely corrosive waste is a simple, safe process that poses little risk to the environment. The corrosive wastes are common and their chemical properties are well known. The notification requirements are unnecessarily burdensome and the general requirements of 30.1101, and the specific requirements of 310 CMR 30.1103(1), (2) and (4), are sufficient. The Federal RCRA regulations for elementary neutralization do not contain these requirements.

One commenter supported the notification requirement for elementary neutralization believing it to be a means for obtaining necessary information about waste generators, their practices and activities. Furthermore, this commenter recommends that generators who use elementary neutralization be required to submit an annual report for the purpose of updating their activities.

Response: The Department agrees that elementary neutralization of wastes that are solely corrosive is a low-risk activity; and that the neutralization procedures are simple, straightforward and well established; and that the specific requirements of 310 CMR 30.1103(1), (2) and (4) are sufficiently protective. Further, many of the requirements contained in 310 CMR 30.1103(3), such as waste characterization and records retention, are redundant since similar information is already required under existing requirements.

The Department's general approach in this regulatory initiative has been to streamline state regulations to be consistent with analogous federal RCRA regulations, where appropriate. Public comments highlighted that the proposed elementary neutralization regulations contain provisions that are more stringent than the federal analog. Therefore, to promote appropriate consistency between federal and state regulations and because MassDEP has determined that elementary neutralization of aqueous wastes that are solely corrosive is a low risk activity, section 310 CMR 30.1103(3) is deleted in its entirety (notification, trial test, waste analysis, miscellaneous information regarding waste disposal). For the same reason, the Department does not adopt the annual report in the final version of the regulations.

Comment: The requirements for elementary neutralization should plainly state the actual pH to which a corrosive hazardous waste must be neutralized.

Response: As defined at 310 CMR 30.123, corrosive hazardous waste are those aqueous wastes exhibiting a pH of less than or equal to 2.0, or greater than or equal to 12.5. By regulation, any waste that is solely corrosive and has a pH outside of the pH range for corrosive hazardous waste is a non-hazardous waste. Therefore, the generator does not have to alter the pH to the chemically neutral point of 7.0, but instead the generator must adjust the pH to a point less than 12.5 and greater than 2.0.

The Department reminds those generators who would utilize this waiver and discharge the treated waste that they must comply with the requirements of the local POTW for all discharge parameters including pH.

Comment: One commenter recommended that the Department track the implementation of the proposed elementary neutralization regulations and use this information to develop additional performance standards for the treatment of hazardous waste without a license.

Response: The Department has means other than a reporting requirement to gather information needed to develop performance standards and will rely on them.

Comments on the Proposed Case-by-Case Waivers

Comment: One commenter recommended that the Department engage the Hazardous Waste Advisory Committee (HWAC), or other public forums, in developing further criteria, which will be used to evaluate the case-by-case waivers.

Response: The Department has historically engaged the HWAC and other groups in its regulatory development initiatives and will continue to do this as we develop guidance to implement these regulations. In fact, the HWAC was involved in review and discussions regarding the proposed waiver for elementary neutralization.

Comment: The United States Environmental Protection Agency (USEPA) expressed objections to the proposed case-by-case regulations asserting that the proposed regulations need to more clearly state that it is the Department's intent of always maintaining the minimum federal RCRA requirements.

Response: The Department agrees with the USEPA's comments and has amended the proposed regulations to more clearly state its intent to maintain the minimum federal RCRA requirements.